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Texas puts more people in treatment and fewer people in prison

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By **Jonathan Tilove, The Times-Picayune**

HUNTSVILLE, TEXAS -- On the eve of their release, inmates in their prison whites file silently into the churchly light of the Chapel of Hope in the **Texas State Penitentiary**. They slide into the pews for the "Welcome Back" program conducted by the Rev. Emmett Solomon, the former chief chaplain for the Texas prisons, who, in his soft, unhurried drawl, offers a few words of wisdom.

Enlarge

Scott Threlkeld, The Times-Picayune

SCOTT THRELKELD / THE TIMES-PICAYUNE Gregory Green Jr., 26, left, gets a hug from his mother, Darlene Green of New Orleans, Friday, September 2, 2011, at the Texas State Penitentiary Huntsville Unit in Huntsville, Texas. Gregory Green was set free Friday after he spent three years in Texas prisons for violating probation for drugs. At right is Green's sister, G.G. Green.

Prison release day in Texas gallery (13 photos)

"Go slow. Don't zoom. Be thoughtful. There are no small decisions."

He urges them to get involved in church or civic or political groups: "Join up, and you will never be as weak as you are now." And, come tomorrow, go with the flow.

"They know how to do this. They've been releasing people here since 1850 -- 1.5 million. Let them do it their way. Put on your pleasant face and let it carry you along."

But when tomorrow comes, these men emerge from the custody of the Texas Department of Criminal Justice -- as 100 or more do every weekday -- like disoriented time travelers, squinting into the bright light of a decade, even a century, they have never inhabited as free men, wearing cast-off clothes and carrying their meager belongings in recycled onion sacks.

The lucky few are greeted by kin: The "Castaneda Family Reunion 2011" -- as their T-shirts say -- reclaiming their long-lost brother, son and lover with hugs, kisses and photographs, like the graduation that it is. A prison guard from Galveston picking up his son: a

good kid, he says, who, caught with $100 worth of powder cocaine, took a plea bargain of five years of probation that was quickly revoked when he missed some meetings and some payments.

The rest -- the aging pedophile facing 16 years on parole, the chipper counterfeiter, the withered man with eight DWIs under his belt and a frightened look in his eyes -- make their way to the mangy Greyhound bus station. They cash their $50 in "gate money"; grab a smoke, a snack or some newer used clothes; and board a bus marked Houston or Dallas. Freedom never looked so fraught or frayed.

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"The one thing we know is they make people worse," said Solomon. Since his retirement in 1993, he has built the Restorative Justice Ministries Network, now 85,000-strong and bent on dismantling the prison system, where he had spent 30 years ministering.

But standing opposite the red brick of "The Walls," as the Huntsville prison is called, Solomon is hardly forlorn, because here in the beating heart of the Texas prison system, he is a witness to change.

The state's prison population has stabilized, an equilibrium made possible by fewer people -- like those making their way past Solomon -- sent to prison in the first place or sent back for violations, often minor.

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Texas accomplished this through an expansion of treatment and diversion programs and through sanctions short of incarceration for probationers and parolees who make mistakes -- two-thirds of the prison admissions. These changes have saved the state money and spared many the life-damaging experience of imprisonment.

Since 1997, the last year Texas' incarceration rate exceeded Louisiana's, the Texas rate has declined by nearly 10 percent while Louisiana's has soared by almost a third.

Most telling, Texas did something last summer it had never done before: close a prison.

"All of this is changing the mentality of the criminal justice apparatus," Solomon said. "They're seeing that

people don't necessarily want us to lock them up and throw away the key. They want us to be smart on crime because we know what works and what doesn't from empirical evidence the last 10 years."

Reentry, Texas Style

Volunteers with Restorative Justice Ministries Network help offenders being released from prison in September 2011, from the Texas State Penitentiary Huntsville Unit in Huntsville, Texas.

The state that burned its brand on the "lock-'em-up" age of American corrections has become the unlikely champion of "smart on crime" penal reform, extolled across the ideological spectrum and emulated in one state after another. It is the obvious prototype should Louisiana -- so long the Lone Star State's soulmate on matters of crime and punishment -- bristle at being the buckle on the incarceration belt.

It is a story of leadership, of a remarkable synergy between the interests of right and left, and of a fiscal crisis in which it was cheaper to invest in keeping people out of prison than to build new prisons to keep them in.

It may be that Louisiana's predicament is so peculiar that the lessons of Texas are largely lost on it. No other state has a system in which so many prisoners are kept by local jailers with the financial incentive and the political clout to maintain the status quo.

But "if they want a model, it's right next door," said Dallas District Court Judge John Creuzot, a New Orleans native who presides over a court that enables first-time drug offenders to escape a criminal record if they complete the program.

"It's not a badge of honor to incarcerate more people than anybody else," said Creuzot, who has emerged as a leading apostle of the Texas reform agenda.

"Texas is the beacon of hope, no doubt about it, and no reason that Louisiana can't follow that model," said Will Harrell, a leading figure in the reform effort as former head of the American Civil Liberties Union of Texas and ombudsman for the state's juvenile justice system, who now lives in New Orleans. Harrell is referring not just to what Texas did but how it found the will and the way to do it, how what for so long appeared the most intractable issue gave way to consensus that cut across partisan, ideological and racial lines.

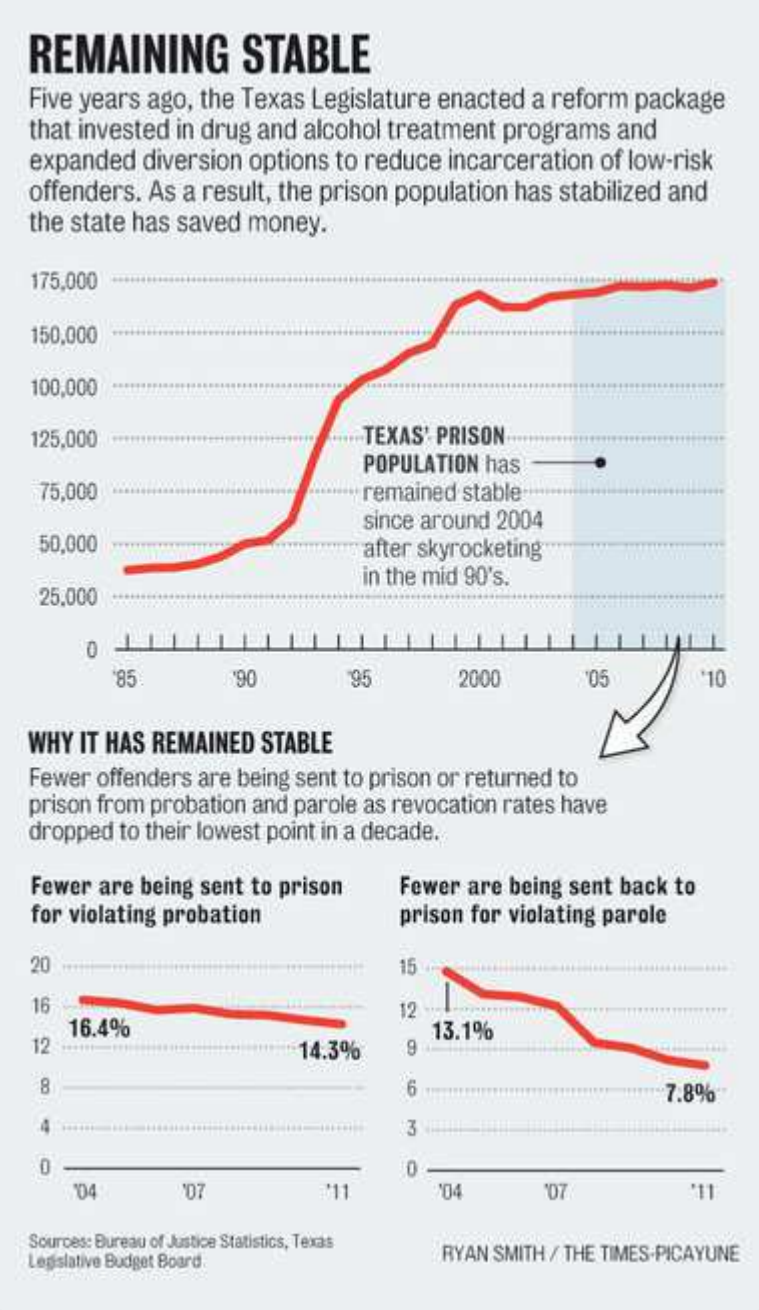
Reform gets results

Five years ago -- already spending nearly $3 billion a year on prisons, probation and parole -- Texas faced the prospect of having to spend $2 billion to build and operate new prisons to meet the projected demand that would require 17,000 new beds by 2012.

Instead, the Texas Legislature, guided by state Sen. John Whitmire, a wily, tightly coiled Houston Democrat who earned his spurs riding herd on what he calls the "prison boys," and Rep. Jerry Madden, a genial

Republican insurance man from Plano, enacted an overhaul package that invested $241 million in treatment programs and diversion options. Gov. Rick Perry, who the previous session had vetoed a package crafted by the same two legislators, signed it into law.

The result: Texas saved money, the incarceration rate is down, probation and parole revocations are down, the prison population has remained stable, recidivism has been declining, the crime rate continues to tumble to historic lows, and instead of building new prisons at more than $300 million a pop, they were able to shutter the century-old Sugar Land Central Unit.



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Any talk of Texas as a paragon of prison reform invites snide comments crediting capital punishment -- a Texas forte exclusively executed within The Walls -- with curbing the inmate population. Texas still has more prisoners than any other state, more than all the states of the Northeast combined, and the fourth-highest incarceration rate in the nation, tied with Alabama, behind Louisiana, Mississippi and Oklahoma.

"It's more that Texas has taken a foot off the gas pedal than changing direction or putting a foot on the brake," said Robert Perkinson, author of "Texas Tough: The Rise of America's Prison Empire."

The changes in Texas are neither novel nor unique. One state after another, including most of its Southern sisters, are working to reduce their prison populations.

What sets Texas apart, and makes its example so influential, is that it has, because of its size, been able to demonstrate results on an impressive scale -- and without shedding its fearsome reputation for punishment.

"Nobody can say Texas is not tough on crime; no one says that's the reason Texas is now seen as a model," said Ana Yanez-Correa, who, as executive director of the Texas Criminal Justice Coalition, has honed her social justice advocacy into that of a measured and widely respected voice in the Capitol. "I think any state can do it."

Or, to quote Whitmire, the Democratic state senator: "I'm not the smartest guy on block, by far, flunked the first grade as far as that goes, but the bottom line is this ain't rocket-science stuff."

Perhaps, but, like Nixon to China, criminal justice overhaul is most effectively championed by tough-on-crime conservatives.

"You've got to establish your credentials for being tough. I talk about asking a masked guy not to shoot me and my family," said Whitmire, referring to a harrowing experience being robbed by a crackhead at gunpoint along with his wife and 9-year-old daughter in the garage of their Houston home in 1992.

Last September, when one of the men responsible for the dragging death of James Byrd in Jasper ordered a smorgasbord of Texas cooking for his last meal, only to lose his appetite and not eat a bite, it was Whitmire who dashed off a letter the next day to Brad Livingston, the head of the prison system, demanding a stop to letting the condemned choose their last meal, a privilege they "did not provide to their victim." Livingston quickly complied.

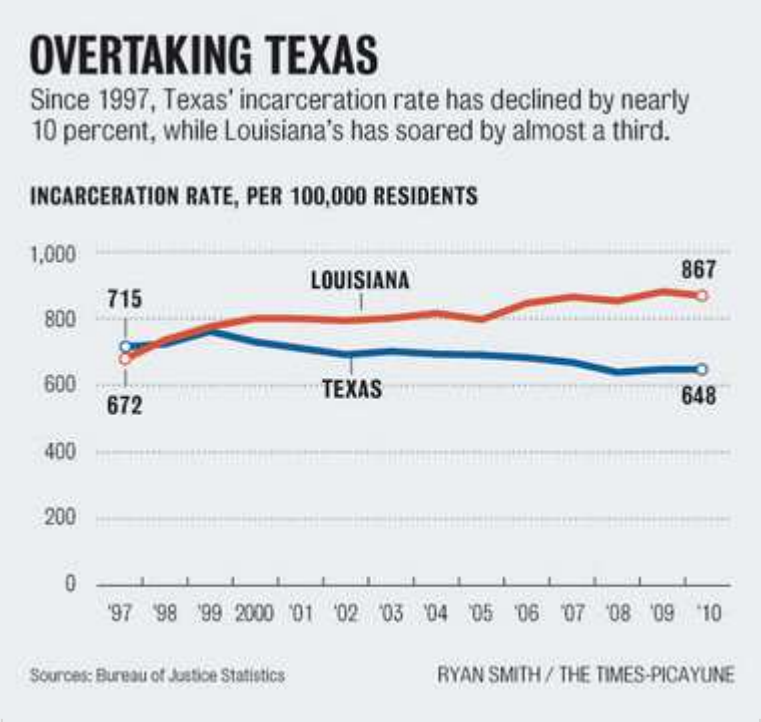
'Right on crime'

For at least the past half century, criminal justice policy in America was a prisoner of fear, the citizenry's fear of crime and the politicians' fear of being seen as soft on crime. From Nixon's law-and-order campaign to the war on drugs to Willie Horton, it was the sharpest shiv in the Republican arsenal, leaving Democrats to bleed or exceed.

Texas set the pace. In the 1980s and 1990s, under both Democratic Gov. Ann Richards and Republican Gov. George W. Bush, the state embarked on the largest prison-building binge in the history of the free world, creating 100,000 new prisons beds and quadrupling its inmate population.

"We tried locking everybody up," Whitmire said.

But in the past several years, with the crime rate dropping, Democrats left for dead, and money dear, Republicans began rethinking their top dogma -- building prisons or cutting taxes? Revisionists on the right came to view prisons as Big Government at its biggest, most intrusive and most expensive.



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"We need a criminal justice system that supports self-government and freedom and markets and love your neighbor, and all the things we say we care about," said Tim Dunn, a Midland oil man and vice chairman of the Texas Public Policy Foundation, an influential conservative think tank. Dunn persuaded the foundation in 2005 to launch the Center for Effective Justice and hire Marc Levin, a cheerfully wonkish movement conservative who began churning out position papers. Levin created a national presence for an approach that came to be known as "right on crime" and, in Austin, became the yang to Yanez-Correa's yin -- ideological opposites who on these issues spoke with a single voice.

It was also in 2005 that Tom Craddick of Midland, the first Republican House speaker since Reconstruction, named Madden to head the Corrections Committee.

"He said, 'Don't build new prisons; they cost too much.' Those are the eight words that changed my life," said Madden, who in November announced that he will not seek an 11th term to devote himself to proselytizing nationally on these issues.

A West Point-trained engineer, Madden sought to reduce the number of people entering prison by giving judges, prosecutors, probation and parole officers a deeper, broader range of treatment and punishment options for nonviolent offenders, enlisting the help of Levin and Yanez-Correa in crafting a plan that ultimately won near-unanimous support in the Legislature.

Nearly as impressive, it survived the
budget cutting of the last session mostly intact.

The effort has its skeptics, like John Bradley, the district attorney in Williamson County, who has emerged as its most outspoken critic in Austin.

"I have no doubt that they will not sustain it," said Bradley, who once served as Whitmire's general counsel. "I know the public support for funding of incarceration has been steady and strong for over 100 years, whereas the public understanding, acceptance and support for programs that supposedly reform are very

ambivalent."

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Scott Threlkeld, The Times-Picayune

Convicts released from the Texas State Penitentiary Huntsville Unit in Huntsville in September greet each other before boarding a bus for home.

But Rep. Charles Perry, a tea-party-backed freshman from Lubbock who arrived in Austin as part of huge new Republican class with "lock 'em up" in his heart, was, on his appointment to the Corrections Committee, a quick convert to the new regime.

"We can all agree that we'd like to lock up every guy that doesn't abide by our laws, but that's not realistic. And I think that's where Texas tried to strike a balance and been successful in finding a balance. We have interjected, if you will, common sense," Perry said. "I would think that with (Louisiana Gov. Bobby) Jindal over there, our kinds of reforms would be warmly received. You don't have to reinvent the wheel."

But, he cautions, "you've got to have leadership, a visionary, someone that's willing to start over and not afraid to be bold with those initiatives."

Probation as opportunity

The key, Whitmire said, is to recognize that parolees and probationers "are going to have a bad day ... are not going to show up sometimes, or show up and not have money for fees, and some days might even show up dirty for drugs. In the past, those guys were routinely revoked and sent back to prison. It was nuts; it was driving our population."

Texas Divert Court's Judge John Creuzot

Dallas, Texas Judge John Creuzot, who was reared in New Orleans, talks about his work helping first-time offenders with minor drug offenses stay out of prison. He runs the Dallas Initiative for Diversion and Expedited Rehabilitation and Treatment (DIVERT) court.

Now, he said, "we're not going to use one of our valuable prison beds. We're going to send you to an intermediate sanction facility for a little attitude adjustment, a little jail therapy to give you chance to demonstrate that you just had a bad day."

In 2005, Geraldine Nagy took over as head of the Travis County Probation Department, with the ambition to create a national model.

"I just wanted to show that probation could work -- that it could reduce recidivism and that it could reduce costs, hand in hand," Nagy said.

She streamlined and improved the interviewing of probationers, scrapped the rambling narratives probation officers labored to prepare in favor of crisp, color-coded diagnostic matrices that provided judges and prosecutors with better, clearer information about a probationer's risk factors and criminal tendencies. She put an end to the "false fairness" of treating all probationers the same, realizing that paying too much attention to those at the least risk could be as counterproductive as paying too little attention to those at highest risk.

Nagy said she took over a department that "was very good at what they were doing, but they had a very limited mission and that was to make sure if somebody messed up on probation they were taken back to court and sanctioned. That's not my vision of probation. My vision of probation is broader than that. It's also to use probation as a window of opportunity to change a person's life."

Like that of Antoine Patton.

When Patton, now 32, was arrested on marijuana charges in Austin in 2010, he already had two strikes against him.

At 18 he had been arrested on crack charges and served 14 months in a state jail. He didn't get any treatment there. "I was finding other people to mess around with," he said. "As soon I got out, I was right back in trouble." Another crack arrest, another 10-month stretch, this time in a federal prison.

No treatment there either, but "seeing people get a lot of time woke me up a bit."

He stopped selling crack, he said, and started selling pot.

"I stayed out of jail, but I wasn't exactly acting right," Patton said.

After his 2010 arrest, Travis County Probation recommended sending Patton to the county's 20-week Smart residential substance-abuse treatment facility as a last chance before a third trip to prison.

"The view of the Probation Department was, if he just goes back to prison it won't change his behavior. But if you can make him change, we can see if we can get him out of the criminal justice system," said Paul Ellis, the senior probation officer at the Smart program. They saw Patton as at a point in his life where he might be ready to grow up. But they also identified him as a "limit-setter," someone to keep a close eye and tight rein on.

"I can see the reason why they would want to watch me," Patton said. "I made a mistake right after I was released each time."

Smart worked on his drug problem, his attitudes and his values. He had courses in parenting and problem solving, job hunting and basic social skills -- "stuff you think you'd already have."

"I learned stress management," he said. "I learned to stop and think."

He's now back home with his wife, 12-year-old and 6-year-old daughters, helping them with homework, dropping them off and picking them up from school. He just had a job interview -- a first.

"I definitely feel like it's going to stick," Patton said. "I feel like I'm on the right path."

Between fiscal 2005 and 2011, felony revocations in Travis County fell by nearly 30 percent.

"It's the only business I know where we don't want repeat customers," Ellis said.

Except, of course, in Louisiana.

Louisiana Incarcerated: Intro Video

Louisiana has more citizens in prison than anywhere else in the world. A New Orleans Times-Picayune team of reporters led by Cindy Chang along with photographer Scott Threlkeld investigates why. Here is a video preview of this Times-Picayune special Report.

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